

Patrick R. Kitchin, Esq. (SBN. 162965)  
**THE LAW OFFICE OF PATRICK R. KITCHIN**  
565 Commercial Street, 4<sup>th</sup> Floor  
San Francisco, CA 94111  
415-677-9058  
415-627-9076 (fax)

Attorneys for Plaintiffs  
Janis Keefe, Corinne Phipps and Renee Davis

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

Plaintiffs, )

VS.

**RALPH LAUREN CORPORATION**

POLO RALPH LAUREN CORPORATION; a Delaware Corporation; POLO RETAIL, LLC., a

) Judge: Hon. Susan Illston  
 ) Hearing Date: July 11, 2008  
 ) Hearing Time: 9:00 a.m.

- Location: Courtroom 10, 19<sup>th</sup> Floor
- 450 Golden Gate Avenue
- San Francisco, California 94102

## Defendants.

*Otsuka, et al. v. Polo, et al.*

Case No. C-07-02780-SI

1 I, Patrick R. Kitchin, declare as follows:

2 1. In this action, I serve as counsel to Plaintiffs Janis Keefe, Corinne Phipps and  
3 Renee Davis, individually and on behalf of all others similarly situated. I make this  
4 declaration in support of Plaintiffs motion for class certification based on personal  
5 knowledge.

6 2. I graduated from The University of Michigan Law School in May 1992 and was  
7 admitted to the California State Bar in December 1992. I have been actively practicing law  
8 in the State of California for approximately 14 years. Between September 1992 and March  
9 1999, I worked as an associate for the following law firms: Stutz, Gallagher, Artiano,  
10 Shinoff & Holtz (San Diego, 1992-1995); Hovey & Kirby (San Diego, 1995-1997); and  
11 Sedgwick, Detert, Moran & Arnold (San Francisco 1997-1999). In those positions I  
12 worked on various litigation teams representing auto manufacturers, pharmaceutical  
13 companies, municipal school districts, community colleges, property owners, large and  
14 small businesses, and various employers across the State of California. Many of these  
15 litigation matters involved claims for damages in excess of \$1 million.

16 3. In the spring of 1999, I formed The Law Office of Patrick R. Kitchin in San  
17 Francisco, California. I am the principal and sole owner of the firm, which specializes in  
18 representing plaintiffs in employment law matters. I have substantial experience in the  
19 prosecution of class action matters in both State and Federal Courts.

20 4. In September 2002, on behalf of aggrieved employees, my office filed an  
21 employment class action against Polo Ralph Lauren Corporation and other related business  
22 entities alleging labor law violations relating to Polo's mandatory employee uniform  
23 policies and practices. After two years of litigation, including motions to dismiss and for  
24 summary judgment, plaintiffs achieved a class-wide settlement of all claims in that case,  
25 for a total value of \$1,500,000. That settlement was approved by Judge Vaughn Walker of  
26 the United States District Court for the Northern District of California (Toni Young v. Polo  
27  
28

1 Ralph Lauren Corporation, et al. Case No. C02-4546 VRW). I served as colead class  
 2 counsel class counsel.

3 5. In March 2003, my office filed an employment class action on behalf of employees  
 4 of The Gap and Banana Republic, alleging labor law violations similar in kind to the ones  
 5 alleged in the above-referenced Polo case, and served as class counsel. On May 31, 2005,  
 6 Judge James Warren of the San Francisco Superior Court granted final approval of a class  
 7 wide settlement of that action, which resulted in substantial benefits to the affected  
 8 employees. (Robert Boleyn v. The Gap, et al., Case Number CGC-03-417075.)

9 6. In May 2003, my office filed an employment class action for employees of Chico's  
 10 FSA, Inc., alleging labor law violations relating to Chico's mandatory employee uniform  
 11 policies and practices (Villanueva v. Chico's FAS, Inc., Case No. CGC-03-420380). In  
 12 December 2005, the San Francisco Superior Court approved a class-wide settlement valued  
 13 at \$500,000, and appointed my office as class counsel.

14 7. In July 2005, I filed an employment class action against Catalina Restaurant Group,  
 15 Inc., in Alameda County Superior Court, Case No. RG05224331, alleging violations of  
 16 California labor laws. The Superior Court granted final approval of a class-wide settlement  
 17 of \$225,000, in May 2007, appointing me as class counsel.

18 8. I have also participated in the prosecution of other employment and consumer class  
 19 action cases in California during the past four years, including cases against 24 Hour  
 20 Fitness, USA, Inc., Catalina Restaurant Group, Inc., Ross Dress for Less, Inc., and Bimbo  
 21 Bakeries, Inc.

22 9. Since opening my law practice in 1999, I have also tried several personal injury  
 23 cases to verdict and have represented employees in discrimination, harassment and  
 24 retaliation cases. I currently represent a former Polo employee in an action venued in Los  
 25 Angeles Superior Court alleging Polo failed to pay him all of the commissions due after he  
 26 left Polo's employment. That matter is set for trial in July 2008. (Scott Strohschein v. Polo  
 27 Rodeo, Inc., et al., Case No. 08C00893.)

1 10. In all of the cases described above, including the instant one, I have played a  
2 significant role in the factual investigation of class-wide claims, the analysis of class wide  
3 damages, drafting pleadings and motions, appearing and arguing almost all motions, and  
4 working with the representative class plaintiffs.

5 11. In the instant case, I have taken 14 depositions of Defendants' witnesses across the  
6 country, in New York, Chicago, San Francisco, Palo Alto and Irvine. I have also partnered  
7 with other experienced attorneys in the prosecution of this case, including Nancy E.  
8 Hudgins, Matthew M. Grigg, Mary M. Leichliter, and William B. Sturgeon. (See,  
9 Declaration of Nancy E. Hudgins, submitted herewith.) I have been the primary contact  
10 with Plaintiffs during the course of this litigation, keeping them abreast of every significant  
11 development.

12 12. Plaintiffs Keefe, Phipps and Davis have been intimately involved in the prosecution  
13 of this action and have cooperated fully with counsel to fulfill their fiduciary duties to the  
14 class. They have each had their depositions taken and have assisted counsel in preparing  
15 responses to written discovery and in identifying factual issues relevant to their claims. To  
16 date, I have personally devoted nearly 1,000 hours to this case and will continue this level  
17 of involvement as this case proceeds.

18 13. Plaintiffs' litigation team also includes economists, licensed private investigators,  
19 paralegals and experienced legal assistants who have devoted substantial time to this case  
20 under counsels' direction. My office and the Law Offices of Nancy E. Hudgins have  
21 devoted substantial resources to the prosecution of this case and have incurred substantial  
22 costs on behalf of the putative class. We have made this case a priority and will continue  
23 to devote the necessary time and financial resources to its successful prosecution.

24 14. Finally, I have served as counsel in five lawsuits against the Defendants since 2002  
25 and have personally counseled numerous current and former Polo employees on various  
26 employment issues. I have an intimate understanding of Polo's employment policies and  
27 practices, its history of operation in California, and I have spoken with dozens of Polo's  
28

1 employees over the years on various topics relating to the claims made in this case. I have  
2 taken depositions of a large number of Polo managers, including senior department heads,  
3 some of them on multiple occasions. Numerous current and former employees of the  
4 company have directly benefited from my advocacy. Over one hundred Polo employees  
5 have contacted my office over the past six years to seek my assistance and counsel.

6 15. My prosecution of the Toni Young v. Polo matter (see above) resulted in the  
7 revocation of Polo's mandatory employee uniform policy across California. I believe the  
8 change in that uniform policy has saved Polo employees hundreds of thousands of dollars  
9 since the mandatory uniform policy was revoked in December 2002 (three months after I  
10 filed the uniform lawsuit against the company.) The results of my advocacy continue to  
11 benefit current Polo employees who are no longer required to purchase Polo products as a  
12 term and condition of employment.

13 16. On Saturday, May 31, 2008, I received from Polo's counsel an Excel file containing  
14 records of product sales, hours worked, wages paid and commissions earned for Polo fiscal  
15 years 2003, 2004, 2005, 2006 and 2007, containing data covering 14,320 pay periods for its  
16 Full Price sales associates in California. (These pay periods include data on managers and  
17 what Polo calls "senior sellers." The number of pay periods is over estimated in the data  
18 because Polo includes references to employees after they are no longer working for the  
19 company as products they sold are returned to the store.) The Excel worksheets for each  
20 year slightly vary in format, but each fiscal year includes data permitting an accurate  
21 analysis of factors relevant to determining the composition and identity of misclassification  
22 subclass members.

23 17. Pursuant to a stipulation between the parties, Polo produced the data in lieu of  
24 producing a qualified witness. I have spent approximately 30 hours reviewing the data,  
25 identifying misclassification subclass members and preparing the Excel worksheet attached  
26 to this declaration as Exhibit 100. Exhibit 100 lists 49 individuals who failed to cover their  
27 wages through product sales more than 50% of the pay periods they worked for Polo.

1 These individuals were identified by sorting the data in various ways, including by store,  
2 employee number, sales history, wage history, commission payments and commission  
3 rates. When I identified an employee who had failed to cover their hourly wages through  
4 sales during a single fiscal years, I copied the employees data to Exhibit 100. With the  
5 assistance of a paralegal in my office, I then ran searches for data pertaining to the  
6 employee in all other years. When I found data in other years pertaining to the individual, I  
7 copied the data into Exhibit 100. The only change made to Polo's payroll records was to  
8 the color of the wage entries and in some instances the removal of duplicative data. When  
9 a sales associate failed to sell enough merchandise to cover their hourly wage, I highlighted  
10 that pay period in red. The data is black on those occasions when a sales associate's sales  
11 covered their hourly wages for that pay period. The only analysis I performed on the data  
12 was to count the total number of pay periods shown for a specific employee in Polo's data  
13 and the total number of times the employee failed to cover their hourly draw. The results  
14 of this simple analysis are shown below each employee's data in large print, such as  
15 "Missed Draw Target Every Pay Period," meaning the employee failed to cover their  
16 wages during any pay period during their employment.

17 18. Exhibit 100 includes data relating to the sales performance and wages of 49 former  
18 Polo employees. I identified an additional 20 individuals whose data have not yet been  
19 added to Exhibit 100. Those additional 20 employees are identified by the following  
20 numbers in Polo's wage records: 54579, 54983, 20933, 37761, 54835, 555375, 55671,  
21 13779, 51740, 56355, 62750, 52209, 54487, 57865, 66345, 327291, 15671, 61456, 61469  
22 and 55552. According to Polo's data, all of these additional 20 individuals failed to cover  
23 their hourly wages through commissions more than 50% of the time. Eight of these  
24 individuals never covered their wages through sales. Overall, then, I have identified a total  
25 of 69 members of the misclassification subclass, a number sufficient to justify class  
26 treatment.

1 19. The data Polo produced to Plaintiffs, however, does not appear complete. For  
2 example, the data for fiscal year 2004 only shows 771 total workweeks for all employees,  
3 while all other years show substantially greater numbers of workweeks: 2033 workweeks  
4 for 2003, 3440 workweeks for 2005, 4024 workweeks for 2006 and 4052 workweeks for  
5 2007. In addition, data relating to persons Polo calls “senior sellers” have been removed  
6 from the Excel workbook.

7 20. In the subsequent weeks, Plaintiffs intend to re-notice the deposition of a qualified  
8 Polo witness who can explain the way the data were compiled and maintained, and what  
9 was included or excluded from its production to my office.

10 21. Based on my review and understanding of the data, three things are apparent. First,  
11 Polo’s payroll records permit one to identify through a straightforward mechanical formula  
12 specific individuals whose sales and wage histories demonstrate they were misclassified as  
13 exempt employees. (That Polo maintains the data in Excel format makes the task  
14 comparatively simple.) Second, Polo’s payroll data appear sufficiently consistent across  
15 fiscal years to permit Plaintiffs to evaluate data relating to all Full-Price Store employees  
16 who worked for Polo at any time since 2002. Third, the number and composition of the  
17 misclassification subclass is likely to grow once Polo provides missing data relating to  
18 fiscal year 2004 and senior sellers. Plaintiffs seek to certify a misclassification subclass  
19 consisting of such individuals, including those 69 individuals listed in Exhibit 100.

20 22. On June 4, 2008, Polo’s counsel provided my office with Exhibit 107, a  
21 compilation of data relating to those persons whose wages were negatively affected by  
22 Polo’s arrears program. Based on discussions with Polo’s counsel, William Goines, I  
23 understand Polo knows the specific identify of those persons identified in Exhibit 107 by  
24 name. Polo identifies a total of 55 individuals who fell into arrears during the pendency of  
25 the arrears program (2004-2006) because they had failed to cover their hourly wages  
26 through product sales. Forty-nine of these individuals had their wages adversely affected  
27 when Polo debited their earned commissions in subsequent pay periods.

1 23. On May 31, 2008, Polo produced a database containing the names of 5,352  
2 individuals who terminated their employment with Polo between May 2002 and May 2008.  
3 These data apparently do not contain the names of cashiers, like Plaintiff Renee Davis, who  
4 worked in Polo's Factory Outlet stores during this time period. I informed Polo's counsels  
5 of this data problem on June 5, 2008, asking them to provide my office with a count of  
6 these cashiers. I have not received that additional information as of today. Given Polo's  
7 counsels' cooperation to date, I anticipate Polo will produce the requested information  
8 before Plaintiffs file their reply brief to this motion. At that time, Plaintiffs should have a  
9 complete count of the class members.

10 24. In my estimation, individualized issues concerning the Arrears Subclass would  
11 relate primarily, if not exclusively, to a straightforward mechanical calculation of damages.

12 25. Attached as Exhibit 1. is a true and correct copy of a printout from Polo Ralph  
13 Lauren Corporation's corporate website.

14 26. Attached as Exhibit 2. is a true and correct copy an excerpt from Polo Ralph  
15 Lauren's 2007 Annual Report (available at <http://investor.polo.com/>).

16 27. Attached as Exhibit 3. is a true and correct copy of a Polo Ralph Lauren's list of  
17 California stores.

18 28. Attached as Exhibit 4. is a true and correct copy of the Deposition of Kimberly  
19 Babka, 113:25-114:3, 119:1-5.

20 29. Attached as Exhibit 5. is a true and correct copy of the Deposition of Sharonda  
21 Weatherspoon, 45:11-13, 83:16-85:15.

22 30. Attached as Exhibit 6. is a true and correct copy of the Deposition of Theresa Cruz,  
23 61:2-7, 99:13-23, 100:14-20.

24 31. Attached as Exhibit 7. is a true and correct copy of the Deposition of Tin Hua,  
25 30:20-31:6.

26 32. Attached as Exhibit 8. is a true and correct excerpt of the Deposition of Corinne  
27 Phipps, 39:4-10.

1 33. Attached as Exhibit 9. is a true and correct excerpt of the Deposition of Janis Keefe,  
2 116:11-19.

3 34. Attached as Exhibit 10. is a true and correct excerpt of the Deposition of Renee  
4 Davis, 67:17-68:13, 21:11-17.

5 35. Attached as Exhibit 11. is a true and correct excerpt of the Deposition of Justin  
6 Kiser, 107:11-20.

7 36. Attached as Exhibit 12. is a true and correct copy of the Polo Employee Handbook  
8 dated 2002.

9 37. Attached as Exhibit 13. is a true and correct copy of the Polo Employee Handbook  
10 dated 2007.

11 38. Attached as Exhibit 14. is a true and correct excerpt of the Deposition of Kimberly  
12 Babka, 74:3-21.

13 39. Attached as Exhibit 15. is a true and correct excerpt of the Deposition of Phoebe  
14 Mireles, 95:24-96:2.

15 40. Attached as Exhibit 16. is a true and correct excerpt of the Deposition of Sharonda  
16 Weatherspoon, 76:9-77:7.

17 41. Attached as Exhibit 17. is a true and correct excerpt of the Deposition of Valerie  
18 Harrison, 90:8-22.

19 42. Attached as Exhibit 18. is a true and correct excerpt of the Deposition of Corinne  
20 Phipps, 55:22-64:11.

21 43. Attached as Exhibit 19. is a true and correct excerpt of the Deposition of Harvey  
22 Resnick, 39:14-45:5, 71:17-72:10.

23 44. Attached as Exhibit 20. is a true and correct excerpt of the Deposition of Janis  
24 Keefe, 113:19-21.

25 45. Attached as Exhibit 21. is a true and correct excerpt of the Deposition of Valerie  
26 Harrison, 125:19-23.

1 46. Attached as Exhibit 22. is a true and correct excerpt of the Deposition of Tin Hua,  
2 66:25-68:9.

3 47. Attached as Exhibit 23. is a true and correct excerpt of the Deposition of Phoebe  
4 Mireles, 23:19-24:5.

5 48. Attached as Exhibit 24. is a true and correct excerpt of the Deposition of Sharonda  
6 Weatherspoon, 61:17-62:12, 71:24-72:5.

7 49. Attached as Exhibit 25. is a true and correct excerpt of the Deposition of Kristi  
8 Mogel, 151:2-13.

9 50. Attached as Exhibit 26. is a true and correct excerpt of the Deposition of Theresa  
10 Cruz, 48:20-23, 50:16-24.

11 51. Attached as Exhibit 27. is a true and correct excerpt of the Deposition of Valerie  
12 Harrison, 28:5-12.

13 52. Attached as Exhibit 28. is a true and correct excerpt of the Deposition of Janis  
14 Keefe, 58:16-59:6.

15 53. Attached as Exhibit 29. is a true and correct excerpt of the Deposition of Renee  
16 Davis, 42:6-23.

17 54. Attached as Exhibit 30. is a true and correct excerpt of the Deposition of Theresa  
18 Cruz, 140:1-14.

19 55. Attached as Exhibit 31. is a true and correct excerpt of the Deposition of Valerie  
20 Harrison, 90:23-91:4.

21 56. Attached as Exhibit 32. is a true and correct excerpt of the Deposition of Kristi  
22 Mogel, 152:20-154:22.

23 57. Attached as Exhibit 33. is a true and correct excerpt of the Deposition of Valerie  
24 Harrison, 29:11-15.

25 58. Attached as Exhibit 34. is a true and correct excerpt of the Deposition of Rosalinda  
26 Wallwork, 42:22-43:5.

1 59. Attached as Exhibit 35. is a true and correct excerpt of the Deposition of Sharonda  
2 Weatherspoon, 62:13-63:23, 68:14-69:1.

3 60. Attached as Exhibit 36. is a true and correct excerpt of the Deposition of Theresa  
4 Cruz, 49:3-25.

5 61. Attached as Exhibit 37. is a true and correct excerpt of the Deposition of Phoebe  
6 Mireles, 41:20-42:9.

7 62. Attached as Exhibit 38. is a true and correct excerpt of the Deposition of Harvey  
8 Resnick, 26:22-27:4, 27:22-25.

9 63. Attached as Exhibit 39. is a true and correct excerpt of the Deposition of Phoebe  
10 Mireles, 79:7-11.

11 64. Attached as Exhibit 40. is a true and correct excerpt of the Deposition of Janis  
12 Keefe, 102:24-110:23.

13 65. Attached as Exhibit 41. is a true and correct excerpt of the Deposition of Renee  
14 Davis, 73:12-74:24.

15 66. Attached as Exhibit 42. is a true and correct excerpt of the Deposition of Beth  
16 Flynn, 25:13-26:2.

17 67. Attached as Exhibit 43. is a true and correct excerpt of the Deposition of Rosalinda  
18 Wallwork, 124:3-125:3.

19 68. Attached as Exhibit 44. is a true and correct excerpt of the Deposition of Harvey  
20 Resnick, 29:5-23.

21 69. Attached as Exhibit 45. is a true and correct excerpt of the Deposition of Phoebe  
22 Mireles, 51:23-59:15.

23 70. Attached as Exhibit 46. is a true and correct excerpt of the Deposition of Harvey  
24 Resnick, 37:14-38:11.

25 71. Attached as Exhibit 47. is a true and correct excerpt of the Deposition of Rosalinda  
26 Wallwork, 54:3-14.

1 72. Attached as Exhibit 48. is a true and correct excerpt of the Deposition of Justin  
2 Kiser, 251:9-21.

3 73. Attached as Exhibit 49. is a true and correct excerpt of the Deposition of Janis  
4 Keefe, 106:12-20, 107:3-6.

5 74. Attached as Exhibit 50. is a true and correct excerpt of the Deposition of Theresa  
6 Cruz, 254:2-13.

7 75. Attached as Exhibit 51. is a true and correct excerpt of the Deposition of Renee  
8 Davis, 75:3-76:5.

9 76. Attached as Exhibit 52. is a true and correct excerpt of the Deposition of Harvey  
10 Resnick, 127:17-130:12.

11 77. Attached as Exhibit 53. is a true and correct excerpt of the Deposition of Justin  
12 Kiser, 255:24-256:6.

13 78. Attached as Exhibit 54. is a true and correct excerpt of the Deposition of Rosalinda  
14 Wallwork, 125:4-25.

15 79. Attached as Exhibit 55. is a true and correct excerpt of the Deposition of Theresa  
16 Cruz, 78:6-79:21.

17 80. Attached as Exhibit 56. is a true and correct copy of the Declaration of Judy Liu.

18 81. Attached as Exhibit 57. is a true and correct excerpt of the Deposition of Harvey  
19 Resnick, 46:10-47:1, 129:6-16.

20 82. Attached as Exhibit 58. is a true and correct copy of the Declaration of Asya  
21 Soloian.

22 83. Attached as Exhibit 59. is a true and correct excerpt of the Deposition of Rosalinda  
23 Wallwork, 141:17-20, 22:10-15, 26:6-27:2, 117:19-119:1, 120:3-15, 141:10-142:13, 121:4-  
24 6, 123:1-11.

25 84. Attached as Exhibit 60. is a true and correct excerpt of the Deposition of Kimberly  
26 Babka, 124:25-125:11.

1 85. Attached as Exhibit 61. is a true and correct excerpt of the Deposition of Kimberly  
2 Babka, 122:20-123:24.

3 86. Attached as Exhibit 62. is a true and correct excerpt of the Deposition of Theresa  
4 Cruz, 221:25-222:8.

5 87. Attached as Exhibit 63. is a true and correct excerpt of the Deposition of Corinne  
6 Phipps, 51:17-52:8, 63:9-18.

7 88. Attached as Exhibit 64. is a true and correct excerpt of the Deposition of Justin  
8 Kiser, 261:24-264:12.

9 89. Attached as Exhibit 65. is a true and correct excerpt of the Deposition of Harvey  
10 Resnick, 43:2-44:2, 98:3-99:5.

11 90. Attached as Exhibit 66. is a true and correct copy of the Declaration of Allison  
12 Dankberg.

13 91. Attached as Exhibit 67. is a true and correct excerpt of the Deposition of Corinne  
14 Phipps, 63:20-64:6.

15 92. Attached as Exhibit 68. is a true and correct excerpt of the Deposition of Janis  
16 Keefe, 109:1-13, 110:12-23.

17 93. Attached as Exhibit 69. is a true and correct excerpt of the Deposition of Renee  
18 Davis, 75:3-78:1.

19 94. Attached as Exhibit 70. is a true and correct excerpt of the Deposition of Justin  
20 Kiser, 258:18-259:18, 253:18-22.

21 95. Attached as Exhibit 71. is a true and correct copy of the Declaration of Katy  
22 Fawver.

23 96. Attached as Exhibit 72. is a true and correct copy of the Declaration of Megan  
24 Glassmeyer.

25 97. Attached as Exhibit 73. is a true and correct copy of the Declaration of Saundra  
26 Nicholson.

1 98. Attached as Exhibit 74. is a true and correct copy of the Declaration of Mara  
2 Apodaca.

3 99. Attached as Exhibit 75. is a true and correct copy of the Declaration of Amir  
4 Filsoof.

5 100. Attached as Exhibit 76. is a true and correct excerpt of the Deposition of Kristi  
6 Mogel, 157:2-10.

7 101. Attached as Exhibit 77. is a true and correct excerpt of the Deposition of Valerie  
8 Harrison, 170:8-171:8.

9 102. Attached as Exhibit 78. is a true and correct excerpt of the Deposition of Rosalinda  
10 Wallwork, 143:3-21.

11 103. Attached as Exhibit 79. is a true and correct excerpt of the Deposition of Phoebe  
12 Mireles, 63:5-64:13.

13 104. Attached as Exhibit 80. is a true and correct excerpt of the Deposition of Theresa  
14 Cruz, 257:19-24, and 258:2-12.

15 105. Attached as Exhibit 81. is a true and correct excerpt of the Deposition of Valerie  
16 Harrison, 166:20-167:18.

17 106. Attached as Exhibit 82. is a true and correct copy of the Declaration of Mandy  
18 Shade.

19 107. Attached as Exhibit 83. is a true and correct copy of the Declaration of Dave Land.

20 108. Attached as Exhibit 84. is a true and correct excerpt of the Deposition of Justin  
21 Kiser, 281:2 -282:23, 285:16-286:15.

22 109. Attached as Exhibit 85. is a true and correct excerpt of the Deposition of Janis  
23 Keefe, 84:2-85:24.

24 110. Attached as Exhibit 86. is a true and correct excerpt of the Deposition of Joanne  
25 Conovas, 53:15-25.

26 111. Attached as Exhibit 87. is a true and correct excerpt of the Deposition of Beth  
27 Flynn, 74:3-17.

1 112. Attached as Exhibit 88. is a true and correct excerpt of the Deposition of Sharonda  
2 Weatherspoon, 49:12-21.

3 113. Attached as Exhibit 89. is a true and correct copy of the Polo Employee  
4 Compensation Handbook, dated April 2002.

5 114. Attached as Exhibit 90. is a true and correct excerpt of the Deposition of Kimberly  
6 Babka, 77:2-10, 79:3-80:24.

7 115. Attached as Exhibit 91. is a true and correct excerpt of the Deposition of Theresa  
8 Cruz, 61:2-7, 158:8-15.

9 116. Attached as Exhibit 92. is a true and correct excerpt of the Deposition of Kristi  
10 Mogel, 76:21-77:18, 135:15-136:1.

11 117. Attached as Exhibit 93. is a true and correct excerpt of the Deposition of Valerie  
12 Harrison, 99:20-24.

13 118. Attached as Exhibit 94. is a true and correct excerpt of the Deposition of Corinne  
14 Phipps, 112:4-14.

15 119. Attached as Exhibit 95. is a true and correct excerpt of the Deposition of Harvey  
16 Resnick, 67:21-69:2.

17 120. Attached as Exhibit 96. is a true and correct excerpt of the Deposition of Kimberly  
18 Babka, 49:20-51:25.

19 121. Attached as Exhibit 97. is a true and correct copy of the PRC Sales Associate  
20 Compensation Re-Structure April 2002.

21 122. Attached as Exhibit 98. is a true and correct excerpt of the Deposition of Kimberly  
22 Babka, 56:4-10.

23 123. Attached as Exhibit 99. is a true and correct copy of Defendants' responses to  
24 Plaintiffs' Judicial Council Form Interrogatories.

25 124. Attached as Exhibit 100. is a true and correct copy of a table I created showing  
26 wage data for 49 former employees of the Defendants in California.

125. Attached as Exhibit 101. is a true and correct copy of a February 7, 1994, Opinion  
2 Letter of the California Department of Industrial Relations, Division of Labor Standards  
3 Enforcement, signed by Chief Counsel H. Thomas Cadell, Jr., and a true and correct copy  
4 of page 50-5 of the California Division of Labor Standards Enforcement, Enforcement  
5 Policies and Interpretations Manual, each addressing suspect commission plans like Polo's.

6 126. Attached as Exhibit 102. is a true and correct excerpt of the Deposition of Evan  
7 Cohen, 14:2-19, 76:5-77:16.

8 127. Attached as Exhibit 103. is a true and correct copy of Polo's Special FY05  
9 Addendum.

10 128. Attached as Exhibit 104. is a true and correct of Polo's Fiscal 2007 Compensation  
11 Update.

12 129. Attached as Exhibit 105. is a true and correct excerpt of the Deposition of Harvey  
13 Resnick, 59:7-21, 109:13-110:6.

14 130. Attached as Exhibit 106. is a true and correct excerpt of the Deposition of Kimberly  
15 Babka, 89:24-90:5.

16 131. Attached as Exhibit 107. is a true and correct of data produced to Plaintiffs by Polo  
17 showing former employees affected by Polo's Arrears program between 2004 and 2006.

18 132. Attached as Exhibit 108. is a true and correct of the Declaration of Kayla Benado.

19 133. Attached as Exhibit 109. is a true and correct of the Declaration of Samir Abu  
20 Tahir.

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1 134. Attached as Exhibit 110. is a true and correct of the Declaration of Amberly Ahring.  
2 135. Attached as Exhibit 111. is a true and correct of the Declaration of Harvey Resnick.  
3 136. Attached as Exhibit 112. is a true and correct of the Declaration of Stacy Shade.

4 I affirm under penalty of perjury under the laws of the United States of America that  
5 the foregoing is true and correct and that this declaration was made on June 3, 2007, in San  
6 Francisco, California.

7 /s/ Patrick R Kitchin

8 Patrick R. Kitchin

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